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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,620	10/02/2000	Francis Lawrence Richter	163.1406US01	3125
23552	7590	07/15/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			DELACROIX MUIRHEI, CYBILLE	
			ART UNIT	PAPER NUMBER
			1614	
DATE MAILED: 07/15/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/676,620	Applicant(s) RICHTER ET AL.	
	Examiner Cybille Delacroix-Muirheid	Art Unit 1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2003 and 14 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6-16,19-23 and 28-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-16, 21-23, 29-39, 42-43 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1,19,20,28,40 and 41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

The following is responsive to the request for continued examination and amendments received Sep. 2, 2003 and April 14, 2004.

Claims 2-5, 17-18, 24-27 are cancelled. New claims 40-43 are added. Claims 1, 6-16, 19-23, 28-43 are currently pending.

The previous claim rejection under 35 USC 103 maintained in the final rejection mailed May 1, 2003 and provided at paragraphs 3-4 of the office action mailed Sep. 24, 2002 **is withdrawn** in view of Applicant's amendment and the remarks contained therein.

Claim Objection(s)

1. Claims 1, 19, 20, 28, 40, 41 are objected to because of the following informalities: in claim 1, the following changes should be made because "a component" cannot "consist essentially of" a compound. Furthermore, these changes should be made to reflect proper US claim practice. In claim 1, line 1, after "composition", "comprising" should be cancelled and replaced with --consisting essentially of--. At line 2, "in the range of" should be cancelled and "an antimicrobial component consisting essentially of" should be cancelled. In claim 19, at line 4, after "composition", "comprises" should be cancelled and replaced with --consisting essentially of--. At line 5, "in the range of" should be cancelled and "an antimicrobial component consisting essentially of" should be cancelled. Finally, in claim 19, line 3, the limitation --milk producing--should be added before "animal." In claim 20, line 2, the limitation --milk producing--should be added before "animal" so as to remain consistent with claim 19.

Art Unit: 1614

In claim 28, line 1, after "claim 19, the term "wherein" should be deleted. In claims 40-41, a component cannot "consist of" a compound. The component is the heptanoic acid compound. Therefore, these claims should be cancelled following the above amendments to claims 1 and 19. Appropriate correction is required.


Conclusion

Claims 1, 19, 20, 28, 40, 41 are objected to.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cybille Delacroix-Muirheid whose telephone number is 571-272-0572. The examiner can normally be reached on Mon-Thurs. from 7:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low, can be reached on 571-272-0951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CDM 
July 12, 2004


Cybille Delacroix-Muirheid
Patent Examiner Group 1600